

McDermott Will & Emery

RECEIVED
FEDERAL CENTER
2009 NOV 12 PM 1:25

Boston Brussels Chicago Düsseldorf Houston London Los Angeles Miami Milan
Munich New York Orange County Rome San Diego Silicon Valley Washington, D.C.

Strategic alliance with MVE China Law Offices (Shanghai)

Stephen M. Ryan
Attorney at Law
sryan@mwe.com
+1 202 756 8333

November 12, 2009

BY HAND DELIVERY

Jeff S. Jordan, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
2009 NOV 12 PM 2:13
OFFICE OF GENERAL
COUNSEL

Re: Matter Under Review 6215 (Greg Gordon)

Dear Mr. Jordan,

On behalf of our client, Greg Gordon, I am writing in response to Randy Spitzmesser's complaint filed with the Commission on September 28, 2009. By the Commission's letter dated October 20, 2009, the deadline for this response was extended to the close of business on November 19, 2009. As counsel for Mr. Gordon, I respectfully request that the Commission find no reason to believe a violation has occurred with respect to Mr. Gordon, and take no further action against him in this matter. See 2 U.S.C. § 437g(a)(1); 11 C.F.R. § 111.6(a).

Factual Background

Mr. Gordon is a structural engineer and owner of Greg Gordon & Associates ("GGA"), a Phoenix, Arizona-based limited liability company. (See Declaration of Greg Gordon ("Gordon Decl.") ¶ 1, Nov. 6, 2009.) Mr. Gordon has never been an employee of Tate Snyder Kimsey Architects, Ltd. ("TSK"), but GGA has a longstanding working relationship with the company. (*Id.* ¶ 2.) Specifically, GGA has served as a consultant to TSK for various design projects in the building and construction industry over the past several years. (*Id.*)

Mr. Gordon's primary contact at TSK is the firm's Design Principal, Windom Kimsey. (*Id.* ¶ 3.) In January 2009, Mr. Kimsey spoke with Mr. Gordon, and invited him to attend a fundraising luncheon event for United States Senator Harry Reid in Las Vegas, Nevada. (*Id.* ¶ 4.) The event was held on February 17, 2009 in Las Vegas. (*Id.*)

Although he declined the invitation to attend the event, Mr. Gordon contributed \$1,000 to Senator Reid's campaign. (*Id.* ¶¶ 4, 5.) Prior to the fundraising luncheon, he wrote a personal check for \$1,000 to the Reid campaign, and delivered it directly to the Reid campaign. (*Id.* ¶ 5.) The check was drawn from funds in Mr. Gordon's personal bank account, which he maintains

with his wife, Tamra Gordon. (*Id.*) Mr. Gordon was not reimbursed for his contribution to the Reid campaign, and he did not request or discuss with TSK personnel the possibility of receiving a reimbursement. (*Id.* ¶ 7.)

Mr. Gordon's contribution to the Reid campaign was voluntary, and he did not feel pressured to contribute to the fundraising event. (*Id.* ¶ 6.) Neither Mr. Kimsey nor his colleague, William Snyder, ever advised Mr. Gordon that his professional relationship with TSK could be adversely affected if he declined to contribute to Reid campaign. (*Id.*)

Analysis

As a threshold matter, Mr. Gordon is not identified as a potential Respondent in Mr. Spitzmesser's complaint to the Commission. Nevertheless, the Commission should find no reason to believe that Mr. Gordon violated federal campaign finance laws for the reasons set forth below.

First, Mr. Gordon was not reimbursed for his contribution to the Reid campaign by TSK, or any other individual or entity. (*Id.* ¶ 7.) His contribution was drawn only from personal funds deposited in the joint checking account that he shares with his spouse. (*Id.* ¶ 5.)

Second, Mr. Gordon voluntarily contributed to the Reid campaign after being asked to contribute during a telephone conversation with Mr. Kimsey. (*Id.* ¶¶ 4, 5.) He was not coerced to make a contribution to the Reid campaign by Messrs. Kimsey or Snyder, who are not his employers, nor was he forced to contribute by any other TSK partner or employee. (*Id.* ¶ 6.)

Mr. Gordon firmly denies that he was warned by TSK personnel that if "he did not make a contribution," he would "not have any work for the upcoming year." (Compl. ¶ 3, Sept. 28, 2009, Gordon Decl. ¶ 6.) Accordingly, Mr. Spitzmesser's suggestion that a TSK partner threatened Mr. Gordon into contributing to the Reid campaign is without merit. (Gordon Decl. ¶ 6.) Indeed, Mr. Spitzmesser concedes as much by acknowledging that Messrs. Kimsey and Snyder "possibly" used coercion to force Mr. Gordon to contribute to Senator Reid's candidate committee. (Compl. ¶ 3.) Such groundless accusations, however, are insufficient to warrant a reason to believe finding by the Commission.

Because there is no substance to Mr. Spitzmesser's allegations against Mr. Gordon, we respectfully request that the Commission find no reason to believe he has committed a violation, and close the matter with no further action against him.

Jeff S. Jordan, Esq.
November 12, 2009
Page 3

If you have questions or require additional information, please do not hesitate to contact me at (202) 756-8333.

Respectfully submitted,

 (JBC)
Stephen M. Ryan

(1) Enclosure